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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,500	07/18/2000	John A. Hagan	RPC.0515-PUS	8840

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/03/2003

20

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/618,500

**Applicant(s)**

HAGAN, JOHN A.

**Examiner**

Stephen J. Castellano

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-16 and 18-49 is/are pending in the application.
- 4a) Of the above claim(s) 33-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-16 and 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Claims 33-49 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 19.

Claims 1-9, 12-16 and 18-32 have been elected, claims 33-49 have been withdrawn and claims 10, 11 and 17 have been canceled.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-16 and 18-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fordon.

For this applicant the clear anticipation will have to be explained.

Re claim 14, since all of the components of the container of Fordon are connected to each other either directly or indirectly through other connected components, the second pair of walls (either the walls made of wire or the walls made of solid fiberboard panels) are integrally formed with and extend upwardly from the peripheral frame portion (vertical flanges 2) and integrally formed with the first pair of opposed walls (either the walls made of wire or the wall made of solid fiberboard panels).

Re claim 18, the base includes side bottom bars (5) and intermediate longitudinal bar (7), the base member includes an exterior ring (frame 1) and a lightweight support material (bottom panel 30) affixed thereacross, the base member is received on the peripheral frame portion for supporting a lower portion of the inner receptacle.

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Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Cloyd.

Cloyd is adapted to receive an inner receptacle of a smaller size.

For this applicant, the rejection will have to be further explained although it is clear.

Cloyd discloses a base (bottom panel 1) including a peripheral frame portion (one or two adjacent of the peripheral ribs 8, as shown in Fig. 2, 3, 4 and 10). The hinge connection of walls 2, 3, 4 and 5 to base 1 is believed to represent an integrally formed connection between the first pair of opposed walls and the peripheral frame portion and the second pair of opposed walls and the peripheral frame as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 12, 13 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fordon in view of Overholt et al. (Overholt).

Fordon discloses the invention except for the inward collapsibility of the two pairs of opposed walls and the releasable attachment of each of the side walls of one pair of opposed walls to the pair of end walls. Overholt teaches a collapsible container having two pairs of opposed walls and the releasable attachment of each of the side walls of one pair of opposed walls to the pair of end walls. It would have been obvious to improve the Fordon container by adding the collapsibility taught by Overholt, motivated by the compact storage achieved thereby.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloyd in view of Sanders et al. (Sanders).

It would have been obvious to one of ordinary skill in the art to have employed the wall aperture teaching set forth in Sanders in the construction of the device of Cloyd, motivated by the material savings achieved thereby.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloyd in view of Sanders et al. (Sanders) as applied to claim 15 above, and further in view of Fordon.

It would have been obvious to one of ordinary skill in the art to have employed inner receptacle attachment members in the construction of the device of Cloyd as modified above by Sanders in view of the teaching of Fordon, motivated by the intended use.

Applicant's arguments filed June 19, 2003 have been fully considered but they are not persuasive.

Re the anticipatory rejection of Fordon, applicant's arguments are moot with respect to claims 1-9 and the claim rejections of claims 14-16 and 18-23 have been explained in more detail and this rejection should be sufficiently clear.

Re the obviousness rejection of Fordon in view of Overholt, the examiner has conceded that Fordon, by itself, doesn't disclose a collapsible container or the releasable attachment of the opposed walls. However, Overholt is relied upon for these teachings. The straps limit outward swing for providing nesting and applicant directs attention to the elimination of the straps. The claims do not require straps or nesting. Therefore, the straps and nesting function could be eliminated in favor of a releasable attachment which selectively allows the walls to remain upright when the container holds items and is stacked and allows the walls to be stored in a compact, collapsed position when the container is empty and being stored or transported.

Re the anticipatory and obviousness rejections of Cloyd, Cloyd has been explained in more detail and these rejections should be sufficiently clear.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

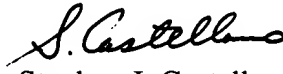
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Stephen J. Castellano  
Primary Examiner  
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sjc